

LCKTMIRC

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 MIRROR WORLDS TECHNOLOGIES,
4 LLC,

Plaintiff,

5 v.

17 CV 3473 (JGK)

Remote proceeding

6 FACEBOOK INC.,

7 Defendant.
8

-----x

9 New York, N.Y.

December 20, 2021

11:00 a.m.

10
11 Before:

12 HON. JOHN G. KOELTL,

13 District Judge

14 APPEARANCES (Via teleconference)

15 RUSS, AUGUST & KABAT
16 Attorneys for Plaintiff
17 BY: BENJAMIN WANG

18 AMSTER, ROTHSTEIN & EBENSTEIN LLC
19 Attorneys for Plaintiff
20 BY: CHARLES MACEDO

21 COOLEY LLP
22 Attorneys for Defendant
23 BY: HEIDI KEEFE
24 PHILIP MORTON
25

LCKTMIRC

(Via teleconference, case called)

THE COURT: Good morning, this is Judge Koeltl.
Who is on the line for plaintiff?

MR. WANG: Good morning, your Honor, Benjamin Wang
from Russ, August & Kabat and Charlie Macedo from Amster,
Rothstein & Ebenstein.

THE COURT: All right. And who is on the phone for
the defendant?

MR. WANG: Good morning, your Honor, Heidi Keefe from
Cooley for defendant. With me is Bill Morton, and the client,
Nikki Vo.

THE COURT: Okay, the reason for the call is I want to
set up the time for argument on the pending motion.

First, additional points. Since I last talked to you,
my law clerks have changed and I currently have a law clerk who
worked at Cravath for somewhat less than two years, and in the
course of that worked on a case in which the client that he was
working on was against the plaintiff's lawyer and with the
expert for the defense. So that clerk doesn't work on this
case.

I also believe I brought to your attention at an
earlier point in the case that I have a niece that works at
Latham, is a partner at Latham, and has represented and I think
still is representing Facebook in other cases. She doesn't
share in any income from any cases that I have.

LCKTMIRC

1 I think that's it. Nothing about anything about any
2 of these situations affects anything that I do in the case, but
3 I always bring these issues to the attention of the parties.

4 Next, the reason for the call is I wanted to set up
5 argument on the motions. I intend to do the argument on
6 January 27 at 10:00 a.m. I'm sorry for the inconvenience that
7 that causes to people on the West Coast, but I imagine you deal
8 with these issues a lot. I had thought about having the
9 argument in person, I enjoyed having the last argument in
10 person, but I'm concerned about all of your travel.

11 Our court is open. I have court proceedings in court
12 in criminal cases and I have done several trials, jury trials,
13 in court, including in my courtroom. So I know all of that is
14 possible, but I'm concerned about, frankly, your welfare. So
15 that left me with two possibilities. One is to do the motion
16 by telephone conference. That's the way in which I have been
17 doing all of my civil motions. But I remember that there were
18 demonstrative exhibits last time, and I would be prepared to do
19 the conference by Zoom. I'm sure that our technical people can
20 set up a Zoom conference. I would probably do it from my
21 chambers because the technology in my chambers is better than
22 the technology in my courtroom. So I will have to get
23 appropriate background for my office computer and wear my robe
24 in my chambers unless I decide to follow Judge Weinstein's
25 example and do it more informally.

LCKTMIRC

1 But I want to discuss that with the parties to see if
2 you're comfortable doing it by Zoom. Plaintiff?

3 MR. WANG: Thank you, your Honor. So we would be
4 comfortable doing it by Zoom over the teleconference option.
5 Our preference would be to do it in person. We do understand
6 all the difficulties and risks and concerns with that, but we
7 would be open to that if all parties and the Court were
8 amenable to that.

9 THE COURT: Okay.

10 MR. WANG: If I may, your Honor, the January 27 date,
11 if there is any flexibility with potentially pushing the
12 hearing off to February, that would certainly make it better
13 for us because we have conflicts and we have another hearing
14 scheduled for that same day, but if that's all that is
15 available, then, of course, we will make any necessary
16 adjustments.

17 THE COURT: That's very kind of you. The motions are
18 very extensive. I'm looking at two boxes in my chambers, and
19 the parties tweaked me about getting to the motions, and so
20 that's why I said I wanted to make sure that I got to them and
21 set it as early as I could on my calendar, which is why the
22 January 27 date. And things become more crowded for me in
23 terms of trial after that, which is why I set it for that date.
24 So I really would like to keep that.

25 So if it's more convenient for you to do it by Zoom

LCKTMIRC

1 under those circumstances and save the travel time, again, I
2 would be prepared to do it by Zoom, but if the defendants are
3 also amenable to doing it in person, I do lots of things in
4 court in person. You would all be masked, but we do at this
5 point allow people to come on in.

6 MS. KEEFE: Your Honor, this Heidi Keefe for
7 defendant. We also would really like to be able to see you in
8 person, and we are absolutely amenable to doing it in person.

9 THE COURT: Okay. Sold. I'm happy to see you all.

10 MS. KEEFE: Thank you, your Honor.

11 MR. MACEDO: Your Honor, this is Charlie Macedo.
12 Again, if January 27 is the only day, that's fine, but I do
13 have an argument that day.

14 THE COURT: Hold on.

15 (Pause)

16 THE COURT: I know it's not the most convenient time,
17 January 28 at 2 o'clock.

18 MS. KEEFE: That's fine with the defendants, your
19 Honor.

20 MR. MACEDO: And I have no conflict with that.

21 MR. WANG: Your Honor, let me check the calendar.
22 Your Honor, I think that will work for us. We'll
23 accept that date. Thank you very much.

24 THE COURT: Great.

25 MR. MACEDO: Thank you, your Honor.

LCKTMIRC

1 THE COURT: Sure. I try to be accommodating to the
2 extent that I can. Fine, January 28, at 2:00 p.m. in person.

3 Okay. Anything else?

4 MR. MACEDO: Are there any pre-procedures that you
5 want to do other than Covid-related-wise?

6 THE COURT: No. Check our court protocols with
7 respect to Covid. I hope that everyone will be vaccinated.
8 You can check. I imagine they're on our website what our Covid
9 protocols are, but everyone will still have to be masked. And
10 I think the only difference between the vaccination status is
11 the degree to which you have to be socially distant in the well
12 of the court. My courtroom has been smoke tested to assure
13 that in a jury trial the person speaking from the podium and
14 the witness don't have to be masked, but the judge still has to
15 be masked if there's a witness in the box.

16 It may be -- and I'm not sure of this -- that the
17 lawyers speaking from the podium and me don't have to be masked
18 in my courtroom, but frankly, I'm not sure about that. I still
19 wear a mask, so do the lawyers in criminal cases, but you can
20 check our website. And it's possible our Covid protocols may
21 change in the new year depending on what the statistics are and
22 what our medical experts tell us.

23 MR. MACEDO: Thank you, your Honor, and we appreciate
24 your accommodations regarding this.

25 MS. KEEFE: Nothing further from defendants except to

LCKTMIRC

1 wish you a happy holiday season.

2 MR. MACEDO: And from plaintiffs.

3 THE COURT: Happy holidays to all of you. Please be
4 well, stay safe.

5 MS. KEEFE: Thank you, your Honor, we'll see you in
6 January, hopefully.

7 MR. MACEDO: Thank you, your Honor.

8 MR. WANG: Thank you, your Honor.

9 (Adjourned)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25